

# SENATE BILL REPORT

## SHB 2107

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As Reported By Senate Committee On:  
Water, Energy & Telecommunications, February 20, 2008

**Title:** An act relating to innovative settlement agreements.

**Brief Description:** Authorizing the use of innovative settlement agreements in lieu of appeal for violations of chapters 90.48 and 90.56 RCW.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schual-Berke, B. Sullivan, Blake, Newhouse, Dickerson, Strow, Kagi, Orcutt, McCoy, Cody and VanDeWege).

**Brief History:** Passed House: 3/14/07, 96-0; 2/07/08, 93-0.

**Committee Activity:** Water, Energy & Telecommunications: 3/27/07, 3/28/07 [DPA]; 2/20/08 [DP].

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### SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

**Majority Report:** Do pass.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Hatfield, Holmquist, Morton and Regala.

**Staff:** Sam Thompson (786-7413)

**Background:** A party charged by the Department of Ecology (DOE) with violating water pollution, or oil and hazardous substance spill laws may pay a penalty or damages for harm to natural resources, or appeal.

The violator may seek to settle a penalty proceeding. A traditional settlement may reduce a penalty or revise a penalty order. An innovative settlement may involve funding or constructing a beneficial project.

Laws regarding oil spills provide that monetary damages recovered from a person spilling oil are deposited in the Coastal Protection Fund, expenditures from which are used to restore natural resources.

**Summary of Bill:** DOE may consider innovative settlements with violators of water pollution, or oil and hazardous substance spill laws. DOE may not consider innovative settlements in cases involving criminal violations, uncorrected violations, or unpaid penalties.

A violator must request an innovative settlement within 30 days of receipt of notice imposing the penalty, or disposing of the application for relief from the penalty. The innovative

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settlement must be agreed upon within 90 days after the settlement process is begun (extendable to 120 days) or the penalty becomes due and payable.

In addition, innovative settlements:

- must be completed within two years;
- cannot be for legally-required projects;
- must be within the same watershed where the violation took place;
- must not directly benefit the violator individually;
- if involving monetary or in-kind payments must equal the assessed penalty, with 20 percent deposited into the Coastal Protection Fund;
- if involving publicity, must cite the assessed penalty and resulting innovative settlement; and
- may not be tax deductible as a charitable contribution.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Substitute Bill:** PRO: The Department of Ecology needs the clear authority granted in this bill to facilitate these innovative settlement agreements, which can involve beneficial remedial projects.

**Persons Testifying:** PRO: Representative Schual-Berke, prime sponsor; Melodie Selby, Department of Ecology.